

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
Southern Division
Civil Action No. 7:20-cv-144

JOSE RAMIREZ, individually and on behalf)	
of all others similarly situated,)	
)	
Plaintiffs,)	
)	DEFENDANTS T&D CUSTOM FENCES
vs.)	AND DECKS, LLC and TIMMY WELLS
)	RESPONSE TO MOTION TO
T&D CUSTOM FENCES AND DECKS)	CONDITIONALLY CERTIFY A
LLC and TIMMY WELLS,)	COLLECTIVE ACTION AND
)	FACILITATE NOTICE PURSUANT TO 29
Defendants.)	U.S.C. 261(B)
)	

The Defendants understand that the requirement of conditionally certifying a collective action are modest. The Defendants deny allegations that employees were required to work off the clock and that they are all subject to unpaid overtime wages. It is further denied that Mr. Ramirez, as a supervisor, would be similarly situated to other workers at T&D.

Objection to Proposed Notice

The Defendants request that the Court enter a shorter notice. The purpose of a collective action is to advise potential plaintiffs of their rights to join the action, not as a tool for Plaintiff's counsel to broaden their suit and force Defendant to identify potential clients for Plaintiff's firm. Accordingly, a 30 day notice period provides effective notice of the action to potential collective action members and is fair to Defendants and Plaintiff. A 60 day notice merely serves the purpose of unfairly assisting Plaintiff in enrolling potential claimants.

Defendants object to Plaintiff's request that the information sought be produced "in computer readable format" as Defendants are unclear what is meant by computer readable. Presumably, all documents are computer readable and can be scanned or photographed to add to the computer.

Defendants further object to the notice of the collective action lawsuit seeking employees from August 7, 2017. (DE 18-1). The look back period for additional plaintiffs is the day they

join the class not the date Jose Ramirez filed suit. Accordingly, the notice improperly broadens the potential class. The Notice should refer to employees as of the date the class receives conditional certification.

This the 10th day of December, 2020.

CROSSLEY McINTOSH COLLIER HANLEY & EDES, PLLC

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will deliver to the following counsel via electronic mail:

L. Michelle Gessner
Gessnerlaw, PLLC
1213 Culbreth Drive, Suite 426
Wilmington, North Carolina 28405

On this 10th day of December, 2020.

/s/ Andrew Hanley
Andrew Hanley